

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 ISAIAH NOEL WILLIAMS, No. C 07-04464 CW (PR)  
4 Plaintiff, ORDER DENYING DEFENDANT'S MOTION FOR  
5 v. RECONSIDERATION OF COURT'S ORDER  
6 D. WILLIAMS, REFERRING PLAINTIFF TO FEDERAL PRO  
BONO PROJECT; SETTING BRIEFING  
SCHEDULE  
7 Defendant. (Docket no. 91)

9 Plaintiff Isaiah Noel Williams, a state prisoner, filed this  
10 pro se civil rights action under 42 U.S.C. § 1983 concerning events  
11 that occurred at Pelican Bay State Prison in 2006.<sup>1</sup> On March 29,  
12 2012, the Court granted in part and denied in part Defendant's  
13 motion for summary judgment and referred the matter to Magistrate  
14 Judge Nandor Vadas for a settlement conference. Docket no. 82.  
15 The case did not settle. Thereafter, Plaintiff filed a motion  
16 requesting the appointment of counsel; on June 26, 2012, the Court  
17 referred Plaintiff to the Federal Pro Bono Project of the Volunteer  
18 Legal Services Program, which will attempt to find an attorney who  
19 is able to represent Plaintiff in these proceedings. Docket no.  
20 90.

21 Defendant has filed a motion for reconsideration of the  
22 Court's order, arguing she was entitled to object before the Court  
23 granted Plaintiff's motion for appointment of counsel and referred  
24 him to the Federal Pro Bono Project. Additionally, she argues that

26       1. Throughout the proceedings in this case, including the  
27 motion addressed in this Order, Defendant erroneously refers to  
28 Plaintiff as a prisoner who is serving a "federal sentence" and  
to herself as a "federal prison official." See Mot. for Recons.  
at 3:2-5. This is inaccurate.

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1 the appointment of counsel is not warranted because "exceptional  
2 circumstances" for such appointment do not exist.

3 The motion for reconsideration is DENIED. Contrary to  
4 Defendant's assertion, the Court has not granted the motion for  
5 appointment of counsel. Rather, in accordance with Northern  
6 District General Order No. 25, the Court has referred Plaintiff to  
7 the Federal Pro Bono Project to see if there is an attorney who  
8 would be willing to represent him. Although Defendant objects to  
9 the Court's having done so without first finding that exceptional  
10 circumstances exist, the argument is without merit -- the  
11 "exceptional circumstances" requirement only applies to a court's  
12 decision whether to appoint counsel. See Agyeman v. Corrections  
13 Corp. of America, 390 F.3d 1101, 1103 (9th Cir. 2004). Moreover,  
14 Defendant has not presented persuasive authority that supports her  
15 argument that the Court is precluded from appointing counsel absent  
16 a finding of exceptional circumstances.

17 If Defendant wishes to oppose Plaintiff's motion for the  
18 appointment of counsel, she may file an opposition no later than  
19 fourteen days from the date of this Order.

20 Plaintiff may file a reply to the opposition no later than  
21 seven days from the date he is served with the opposition.

22 The Court will rule on the motion when it has been briefed  
23 fully. The order of referral to the Federal Pro Bono Project  
24 remains in place.

25 This Order terminates Docket no. 91.

26 IT IS SO ORDERED.

27 Dated: July 5, 2012

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CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE